IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2773 OF 2005.

M/s.Akasha syncotex Ltd. ... Petitioner.

V/s.

Shri Ramesh Kanade and anr. ... Respondents.

K.S.Bapat for the petitioner.

None for the respondent.

CORAM: V.C.DAGA, J.

DATED: 20th April 2006.

P.C.:

. Heard learned counsel for the petitioner.

2. Two main contentions are raised in this petition, viz., (i) that the respondent No.1 is not a workman and that there was no employer - employee relationship between the petitioner and respondent No.1; and (ii) that there was closure as such no reinstatement could be ordered.

3. So far as first contention is concerned, it revolves around appreciation of evidence. Reappreciation of evidence in writ jurisdiction of this Court is not permitted unless it is perverse. No case is made for reappreciation of evidence. The first contention stands negatived.

4. So far as second contention with respect to closure of the company is concerned, the same was never raised in the written statement filed before the trial Court. Whether or not there is a closure is a question of fact. It needs to be decided on the basis of evidence led. In absence of any material on record and in absence of any pleadings in that behalf, the question cannot be allowed to be raised. The Court below was perfectly justified in passing impugned order on the basis of material available on record. The petition is without any substance. No perversity in the order could be demonstrated by the petitioner.

5. Petition is, thus, dismissed in limine with no order as to costs.

(V.C.DAGA, J.)